



APPLICANT: James F. Allsup
SERIAL NO.: 09/629,323
FILED: July 31, 2000
EXAMINER: Dinh X. Nguyen
DOCKET NO.: 7554
GROUP ART UNIT: 3626
FOR: Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan

**Affidavit of James F. Allsup In Response To Requirement
For Information Under 37 C.F.R. §1.105**

James F. Allsup, being duly sworn, does hereby depose and say as follows:

1. I am the inventor of the Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan described and claimed in application Serial No. 09/629,323 filed July 31, 2000. This application claims priority to my provisional patent application Serial No. 60/189,551, filed March 15, 2000. I own all rights, title and interest in the applications and the invention and have not assigned any rights to another party.

2. I am the founder and President of Allsup, Inc ("Allsup"). Allsup is the exclusive user of the Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan described and claimed in application Serial No. 09/629,323. Allsup, Inc. was established in 1984.

3. Prior to founding Allsup, I was employed by the Social Security Administration ("SSA") from 1977 to 1982 as a claims and field representative.

4. I generally am familiar with the contents of the November 1999 and February 2000 WebPages of allsupinc.com referenced by the Examiner.

5. I was instrumental in developing, and have first hand knowledge of, the services offered by Allsup since 1984. I specifically have knowledge of the Social Security Disability Insurance Representation service initiated in 1984, and the loan services, assistance in recovering disability costs for insurers and the identification of Medicare entitled employees, enrollment of those employees, and cost recovery services Allsup has provided since 1993, as referenced on the Allsup archived website.

6. Allsup's original business purpose in 1984 was to utilize my experience working with the SSA to represent individuals in their pursuit of Social Security Disability Insurance benefits ("SSDI") from the SSA. This is the service referred to in the archived website by the statement " *Since 1984, we've helped more than 35,000 people obtain Social Security Disability benefits.*"

7. From 1984 until approximately 1991, Allsup took no action to recover the overpayment. Allsup simply informed the individual that the LTD carrier or self-insured employer would contact the individual directly and would provide them with the exact amount to be repaid. This process included informing the LTD carrier or self-insured employer of the award, the date the individual became entitled to SSDI benefits and of the specific SSDI benefit amount, so that the LTD carrier or self-insured employer could calculate the overpayment amount and proceed with its own recovery efforts from the individual. This is the old "back end" information assistance only activity I refer

to in paragraph 8 of Affidavit of James F. Allsup Under 37 C.F.R. §1.132 that I am submitting in support of the patentability of my invention. The statements contained in that Affidavit are incorporated into this Affidavit by reference.

8. Allsup employed the old “back-end” information assistance only activity before 1991. The reference in the cited archive pages “*Since 1984, we’ve helped more than 35,000 people obtain Social Security Disability benefits*” also would encompass aspects of this “back-end” information assistance only activity, which really was no recovery system at all. It was merely the notification of the recipient of the obligation to repay any overpayment, and the notification of the LTD carrier or self-insured employer that an SSDI award which resulted in a payment, was received by the disabled individual, allowing the LTD carrier to calculate the overpayment and institute its own overpayment recovery measures.

9. Beginning in approximately 1991, I began thinking about a better way to facilitate overpayment recovery, with Allsup for the first time actually performing the recovery. I considered several options that were not practical at the time. However, beginning in 1991 Allsup introduced a “manual” process for expediting overpayment recovery. From 1991 until the introduction of the system of the present invention, the manual system was the only method Allsup employed commercially to recover overpayments.

10. Essentially, the “manual” process began the overpayment recovery process before the overpayment was created. While conducting the initial SSDI application interview with the individual, the Allsup representative informed the individual that an overpayment may be created if Allsup was successful in

obtaining an SSDI award. However, unlike the prior “back-end” information assistance only activity, the individual also was informed that Allsup could help them meet their repayment obligation, by having the individual forward their overpayment to Allsup upon receipt of the retroactive SSDI payment. Allsup also informed the individual that if he or she failed to repay the overpayment, it could result in a suspension of some or all of their LTD benefits.

11. Contrary to my present invention, the manual system still requires the recipient to send the overpayment to Allsup after receiving payment of the SSDI benefit. I have included with this Affidavit brochures in response to the request for information that Allsup used to promote this service.

12. Allsup still employs the manual system on a limited basis as a back up to the electronic system, or when the client insurance company or the insured opts out of the electronic overpayment recovery method. The manual process that Allsup has employed since 1991 is explained in detail in my accompanying Affidavit of James F. Allsup Under 37 C.F.R. §1.132 in paragraphs 14 to 16. The reference in the cited archive pages “*Since 1984, we’ve helped more than 35,000 people obtain Social Security Disability benefits*” also would encompass aspects of this manual system, which, as I set out in my Affidavit of James F. Allsup Under 37 C.F.R. §1.132, is distinctly different from my claimed invention. Because the cited archived website pages show a November 1999 and a February 2000 version, the cited reference also encompasses aspects of the novel system which is the subject of my pending patent application, which was first commercialized in the fall of 1999.

13. As I explain in my Affidavit of James F. Allsup Under 37 C.F.R. §1.132, the old manual system does not allow for preauthorization of the overpayment recovery or the automatic or electronic recovery or “sweep” of the overpayment from the individual’s account. These two factors contribute greatly to the commercial success of my invention, since they overcome problems long associated with overpayment recovery, i.e. the individual’s disposal of the money before recovery and/or the individual’s general reluctance to return money to the disability insurance carrier or self-insured employer once the individual is in possession of the SSDI award.

14. Allsup’s other primary service is known as Medicare Recovery. Medicare Recovery is a service that allows a different group of Allsup’s client companies the opportunity to recover erroneously paid health care claims from Medicare. These are claims for individuals who have Medicare coverage but did not utilize this coverage at the time they paid for services from their medical provider. Instead they paid for the service with the health insurance of their employer. Medicare has established a procedure that allows employers or their insurers the opportunity to recover these incorrectly paid health care dollars. The procedure requires the employer or its insurer to have the medical provider submit the bill for services directly to the appropriate Medicare contractor and request payment.

15. By law, Medicare is required to pay if the individual is disabled and has Medicare coverage. When Medicare reimburses the provider, these funds are then returned to the employer or its insurer. Allsup simply assists in this

procedure by acting as intermediary, requesting that the medical provider submit the bill to Medicare, tracking the progress of the reimbursement, and forwarding the recovered dollars to the employer or its insurer, when received. Allsup has provided these services since approximately 1993, hence the reference to the year 1993 in the cited archived web pages. I have provided some written materials in response to the request for information that describe these services.

16. Allsup's Medicare Recovery service is not related to the recovery of overpayments of LTD benefits resulting from the award of SSDI and does not involve the use of Allsup's preauthorized withdrawal form or ACH software.

17. The reference to "loan services" on the November 1999 and February 2000 archived website includes the Financial Assistance Program for Claimants (FAP) as described in the specification of my patent application beginning at page 45, line 21. I believe the reference to "loans services" was placed on those web pages to see if there was interest in such a program. The actual FAP program was not offered commercially until approximately December, 2002.

18. Submitted with this affidavit is an Allsup publication entitled PASS. This brochure is marked "Patent Pending" and was published after the priority date of my patent application. The PASS program commercializes the "Post Award Service & Savings Program and Financial Assistance" aspect of the invention that is claimed in my application Serial No. 09/629,323. The PASS program was initiated approximately at the same time the novel overpayment recovery program was initiated. Consequently, the November 1999 and

February 2000 archived website could reference specific services provided through the PASS program.

19. I have included with this Affidavit a photocopy of our brochure *Disabled? Can't Work? Can't Wait? Disability Benefits In Advance*, which describes Allsup's Financial Assistance Program. This brochure was finalized in November, 2002.

20. Also in response to the Examiner's request for information, I have included with this Affidavit several Allsup publications that explain in greater detail various services offered by Allsup. These publications Include:

- A September 1999 edition of *The Allsup Express*.
- Allsup Inc. *Seamless Overpayment Recovery Service*, which, according to Allsup records, was published January or February, 2000. This brochure explains the electronic overpayment recovery service that is the subject of my patent application.
- *Disability Coordination By Allsup Inc.*, which, according to Allsup records, was published December 24, 1999. This brochure gives an overview of all the disability insurance related services provided by Allsup, Inc and was used approximately two months.
- *PASSsm Post-Award Services & Savings*, is a web page developed sometime in 2000, but no longer is used.

21. In response to the Examiner's request for known publications, brochures, product reviews or analysis regarding the products, services or the Allsup, Inc. web site and so forth, I have provided the following documents:

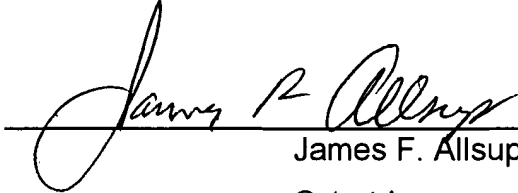
- Business Reply Mail Card-“*First, the Bad New ... Now the Good News...*”. I cannot determine the exact dates that Allsup used this card, but I believe it was in use prior to the invention of my new system. It is no longer in use.
- Allsup, Inc. *The Social Security Disability Specialists* brochure. This brochure was created in approximately 1993, but is no longer in use.
- *How To Get Your Social Security Disability Benefits Quickly & Easily* brochure used in 1995-1996 and no longer used.
- *Allsup Inc.’s Overpayment Recovery Service* brochure used in approximately 1995-1996. This brochure describes the manual system we used before my present invention and is no longer in use.
- *Allsup Inc.’s Prescription For Medicare Recovery* brochure used in approximately 1995-1996.
- *Allsup’s Employer Services* printout from Allsup’s 1996 website.
- *Allsup Inc.’s Overpayment Recovery Service* brochure used in approximately 1997-1998. This is a revision of the 1995-1996 brochure. It is no longer in use.
- Business Reply Card-“*Who Says Drop Outs...*”. I cannot determine the exact dates that Allsup used this card, but I believe it was in use prior to the invention of my new system. It is no longer in use.

- *The Third-Party Administrator's First Choice In Cost Containment* brochure. Again, I cannot determine the exact date of publication of this brochure, but I assume it was before the invention of my present system and it is no longer in use.
- *Don't take our word for it when we tell you we're the nation's best Social Security assistance company* brochure, created in approximately January 1992 and no longer in use.
- *Social Security Disability Assistance Program* brochure, first used in 2000 and still in use.
- *Help In Applying for Social Security Disability Benefits Allsup Inc.* brochure, first created in approximately 1997 and still in use.
- *Allsup Inc. Social Security-Driven Savings* webpage just created for 2003 and currently in use.
- *Enter A New Dimension Of Social Security Savings* folder including three separate brochures, created in approximately December, 2000, and currently in use.

22. After a search of the Allsup, Inc. files, I believe I have provided for the Examiner with this Affidavit, or with my provisional application Serial No. 60/189,555, filed March 15, 2000, all of the information that is responsive to the Examiner's request for information of which I am presently aware or could find in the Allsup, Inc. files.

23. I believe with this affidavit, the submitted written materials and my Affidavit under 37 C.F.R. §1.132, I have complied with the Examiner's request for information as completely as possible.

Further deponent sayeth not.


James F. Allsup

Sworn and subscribed to before me this 26th day of FEB 2003

2003.


Notary Public

My Commission expires: 8/7/04

